

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TIFFANY WAGNER,

Petitioner,

v.

Case No. 09-C-0402

CATHY JESS,

Respondent.

ORDER

On May 5, 2010, the plaintiff filed a motion for “an emergency preliminary injunction to be transferred out of the State of Wisconsin Department of Corrections custody.” (Motion Requesting a Preliminary/Preventative Injunction to be transferred out of the State of Wisconsin [Motion for a Preliminary Injunction at 1]). By this motion, the plaintiff asserts that TCI correctional officers have “continuously and systematically poisoned me placing me under extreme duress and coercion” and that they “have threatened and carried out the threat to poison me and or kill me on numerous occasions in an effort to violate my very valid PLRA claim and Habeas Petition.”¹ In addition to her motion for a preliminary injunction, the plaintiff also filed a document entitled “Brief in Support of Motion to Proceed under Rule 28 U.S.C. § 2244(d)(D)(B).”²

¹The petitioner filed the exact same motion in her conditions of confinement case, Wagner v. Wisconsin Department of Corrections, et al., 08-CV-615.

²This document was also filed in 08-CV-615. In that case, the petitioner titled it “Brief in Support of Preliminary Injunctive Relief.”

On June 22, 2010, the petitioner filed a motion to amend the complaint to add additional defendants. The petitioner asserts that “[e]ach defendant being sued individually and in his or her individual capacity at all time mentioned in this complaint each defendant acted under the color of state law.” (Motion to Amend Complaint Adding Defendants at 1). It appears that the petitioner mistakenly filed this motion in this case. The only proper respondent in a petition for a writ of habeas corpus is the state officer of who has custody of the petitioner. See Rule 2, Rules Governing Habeas Corpus Cases Under Section 2254.

On December 31, 2009, this court entered an decision and order amending its December 4, 2009, decision and order denying the petitioner’s petition for a writ of habeas corpus. In its December 4, 2009, decision and order, the court determined that the petition for a writ of habeas corpus was untimely filed pursuant to 28 U.S.C. § 2244(d). The Clerk of Court entered judgment that same day. On January 15, 2010, the plaintiff filed a motion for reconsideration which the court denied on February 9, 2010. This case is closed and judgment has been entered. The petitioner can not file any additional motions in this case.

Accordingly, the petitioner’s motion for a preliminary injunction and motion to amend the complaint will be denied. Any additional motions filed in this case will be docketed only. The court will not enter any order with respect any additional motions filed in this case.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the petitioner’s motion for “an emergency preliminary injunction to be transferred out of the State of Wisconsin Department of Corrections custody” be and hereby is denied. (Docket # 39).

IT IS FURTHER ORDERED that the petitioner's motion to amend the complaint be and hereby is denied. (Docket # 41).

Dated at Milwaukee, Wisconsin this 28th day of June, 2010.

BY THE COURT:

s/ Patricia J. Gorence
PATRICIA J. GORENCE
United States Magistrate Judge